

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1104**

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**Introduced by Assembly Member Salas**

February 22, 2013

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An act to amend Section ~~2827~~ 25205 of the Public Utilities Resources Code, relating to ~~energy~~ the State Energy Resources Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, as amended, Salas. ~~Energy: net energy metering. State Energy Resources Conservation and Development Commission: incompatible offices: incompatible activities.~~

*The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission, with various duties and responsibilities with respect to energy policy and planning. An existing provision in the act generally prohibits the members of the commission from holding any other elected or appointed public office or position. The act additionally requires all members of the commission and employees of the commission to comply with a provision of the Government Code that no longer exists. Existing law makes the violation of these provisions of the act a felony subject to fine and imprisonment, or both.*

*The Government Code prohibits any state officer or employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee and requires each appointing power to determine, subject to the approval of the Department of Personnel*

*Administration, those activities that are inconsistent, incompatible, or in conflict with their duties as state officers or employees.*

*This bill would delete the prohibition in the act upon the members of the commission holding any other elected or appointed public office or position. The bill would require all members of the commission and employees of the commission to comply with the existing provision of the Government Code prohibiting a state officer or employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee. Because a violation of the bill's prohibition upon a state officer or employee of the commission engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to their duties as a state officer or employee would be a crime, this bill would impose a state-mandated local program by creating a new crime.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law requires all electric service providers to develop a standard contract or tariff providing for net energy metering, and to make this contract available to eligible customer generators, upon request.~~

~~This bill would make a technical, nonsubstantive change to the above provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 25205 of the Public Resources Code is*
- 2     *amended to read:*
- 3     25205. (a) No person shall be a member of the commission
- 4     who, during the two years prior to appointment on the commission,
- 5     received any substantial portion of his or her income directly or
- 6     indirectly from any electric utility, or who engages in sale or
- 7     manufacture of any major component of any facility. A member
- 8     of the commission shall not be employed by any electric utility,

1 applicant, or, within two years after he or she ceases to be a  
2 member of the commission, by any person who engages in the sale  
3 or manufacture of any major component of any facility.

4 ~~(b) Except as provided in Section 25202, the members of the~~  
5 ~~commission shall not hold any other elected or appointed public~~  
6 ~~office or position.~~

7 ~~(e)~~

8 (b) The members of the commission and all employees of the  
9 commission shall comply with all applicable provisions of Section  
10 ~~19254~~ 19990 of the Government Code.

11 ~~(d)~~

12 (c) A person who is a member or employee of the commission  
13 shall not participate personally and substantially as a member or  
14 employee of the commission, through decision, approval,  
15 disapproval, recommendation, the rendering of advice,  
16 investigation, or otherwise, in a judicial or other proceeding,  
17 hearing, application, request for a ruling, or other determination,  
18 contract, claim, controversy, study, plan, or other particular matter  
19 in which, to his or her knowledge, he or she, his or her spouse,  
20 minor child, or partner, or any organization, except a governmental  
21 agency or educational or research institution qualifying as a  
22 nonprofit organization under state or federal income tax law, in  
23 which he or she is serving, or has served as officer, director, trustee,  
24 partner, or employee while serving as a member or employee of  
25 the commission or within two years prior to his or her appointment  
26 as a member of the commission, has a direct or indirect financial  
27 interest.

28 ~~(e)~~

29 (d) A person who is a partner, employer, or employee of a  
30 member or employee of the commission shall not act as an attorney,  
31 agent, or employee for any person other than the state in connection  
32 with any judicial or other proceeding, hearing, application, request  
33 for a ruling, or other determination, contract, claim, controversy,  
34 study, plan, or other particular matter in which the commission is  
35 a party or has a direct and substantial interest.

36 ~~(f)~~

37 (e) The provisions of this section shall not apply if the Attorney  
38 General finds that the interest of the member or employee of the  
39 commission is not so substantial as to be deemed likely to affect

1 the integrity of the services which the state may expect from the  
2 member or employee.

3 ~~(g)~~

4 (f) Any person who violates any provision of this section is  
5 guilty of a felony and shall be subject to a fine of not more than  
6 ten thousand dollars (\$10,000) or imprisonment pursuant to  
7 subdivision (h) of Section 1170 of the Penal Code, or both that  
8 fine and imprisonment.

9 ~~(h)~~

10 (g) The amendment of subdivision ~~(d)~~ (c) of this section enacted  
11 by the 1975–76 Regular Session of the Legislature does not  
12 constitute a change in, but is declaratory of, existing law.

13 *SEC. 2. No reimbursement is required by this act pursuant to*  
14 *Section 6 of Article XIII B of the California Constitution because*  
15 *the only costs that may be incurred by a local agency or school*  
16 *district will be incurred because this act creates a new crime or*  
17 *infraction, eliminates a crime or infraction, or changes the penalty*  
18 *for a crime or infraction, within the meaning of Section 17556 of*  
19 *the Government Code, or changes the definition of a crime within*  
20 *the meaning of Section 6 of Article XIII B of the California*  
21 *Constitution.*

22 ~~SECTION 1. Section 2827 of the Public Utilities Code is~~  
23 ~~amended to read:~~

24 ~~2827. (a) The Legislature finds and declares that a program~~  
25 ~~to provide net energy metering combined with net surplus~~  
26 ~~compensation, co-energy metering, and wind energy co-metering~~  
27 ~~for eligible customer-generators is one way to encourage substantial~~  
28 ~~private investment in renewable energy resources, stimulate in-state~~  
29 ~~economic growth, reduce demand for electricity during peak~~  
30 ~~consumption periods, help stabilize California's energy supply~~  
31 ~~infrastructure, enhance the continued diversification of California's~~  
32 ~~energy resource mix, reduce interconnection and administrative~~  
33 ~~costs for electricity suppliers, and encourage conservation and~~  
34 ~~efficiency.~~

35 ~~(b) As used in this section, the following terms have the~~  
36 ~~following meanings:~~

37 ~~(1) "Co-energy metering" means a program that is the same in~~  
38 ~~all other respects as a net energy metering program, except that~~  
39 ~~the local publicly owned electric utility has elected to apply a~~

1 ~~generation-to-generation energy and time-of-use credit formula~~  
2 ~~as provided in subdivision (i).~~

3 ~~(2) “Electrical cooperative” means an electrical cooperative as~~  
4 ~~defined in Section 2776.~~

5 ~~(3) “Electric utility” means an electrical corporation, a local~~  
6 ~~publicly owned electric utility, or an electrical cooperative, or any~~  
7 ~~other entity, except an electric service provider, that offers electrical~~  
8 ~~service. This section shall not apply to a local publicly owned~~  
9 ~~electric utility that serves more than 750,000 customers and that~~  
10 ~~also conveys water to its customers.~~

11 ~~(4) “Eligible customer-generator” means a residential customer,~~  
12 ~~small commercial customer as defined in subdivision (h) of Section~~  
13 ~~331, or commercial, industrial, or agricultural customer of an~~  
14 ~~electric utility, who uses a renewable electrical generation facility,~~  
15 ~~or a combination of those facilities, with a total capacity of not~~  
16 ~~more than one megawatt, that is located on the customer’s owned,~~  
17 ~~leased, or rented premises, and is interconnected and operates in~~  
18 ~~parallel with the electrical grid, and is intended primarily to offset~~  
19 ~~part or all of the customer’s own electrical requirements.~~

20 ~~(5) “Renewable electrical generation facility” means a facility~~  
21 ~~that generates electricity from a renewable source listed in~~  
22 ~~paragraph (1) of subdivision (a) of Section 25741 of the Public~~  
23 ~~Resources Code. A small hydroelectric generation facility is not~~  
24 ~~an eligible renewable electrical generation facility if it will cause~~  
25 ~~an adverse impact on instream beneficial uses or cause a change~~  
26 ~~in the volume or timing of streamflow.~~

27 ~~(6) “Net energy metering” means measuring the difference~~  
28 ~~between the electricity supplied through the electrical grid and the~~  
29 ~~electricity generated by an eligible customer-generator and fed~~  
30 ~~back to the electrical grid over a 12-month period as described in~~  
31 ~~subdivisions (e) and (h).~~

32 ~~(7) “Net surplus customer-generator” means an eligible~~  
33 ~~customer-generator that generates more electricity during a~~  
34 ~~12-month period than is supplied by the electric utility to the~~  
35 ~~eligible customer-generator during the same 12-month period.~~

36 ~~(8) “Net surplus electricity” means all electricity generated by~~  
37 ~~an eligible customer-generator measured in kilowatthours over a~~  
38 ~~12-month period that exceeds the amount of electricity consumed~~  
39 ~~by that eligible customer-generator.~~

1     ~~(9) “Net surplus electricity compensation” means a per~~  
2     ~~kilowatthour rate offered by the electric utility to the net surplus~~  
3     ~~customer-generator for net surplus electricity that is set by the~~  
4     ~~ratemaking authority pursuant to subdivision (h).~~

5     ~~(10) “Ratemaking authority” means, for an electrical~~  
6     ~~corporation, the commission, for an electrical cooperative, its~~  
7     ~~ratesetting body selected by its shareholders or members, and for~~  
8     ~~a local publicly owned electric utility, the local elected body~~  
9     ~~responsible for setting the rates of the local publicly owned utility.~~

10    ~~(11) “Wind energy co-metering” means any wind energy project~~  
11    ~~greater than 50 kilowatts, but not exceeding one megawatt, where~~  
12    ~~the difference between the electricity supplied through the electrical~~  
13    ~~grid and the electricity generated by an eligible customer-generator~~  
14    ~~and fed back to the electrical grid over a 12-month period is as~~  
15    ~~described in subdivision (h). Wind energy co-metering shall be~~  
16    ~~accomplished pursuant to Section 2827.8.~~

17    ~~(e) (1) Every electric utility shall develop a standard contract~~  
18    ~~or tariff providing for net energy metering, and shall make this~~  
19    ~~standard contract or tariff available to eligible customer-generators,~~  
20    ~~upon request, on a first-come-first-served basis until the time that~~  
21    ~~the total rated generating capacity used by eligible~~  
22    ~~customer-generators exceeds 5 percent of the electric utility’s~~  
23    ~~aggregate customer peak demand. Net energy metering shall be~~  
24    ~~accomplished using a single meter capable of registering the flow~~  
25    ~~of electricity in two directions. An additional meter or meters to~~  
26    ~~monitor the flow of electricity in each direction may be installed~~  
27    ~~with the consent of the eligible customer-generator, at the expense~~  
28    ~~of the electric utility, and the additional metering shall be used~~  
29    ~~only to provide the information necessary to accurately bill or~~  
30    ~~credit the eligible customer-generator pursuant to subdivision (h),~~  
31    ~~or to collect generating system performance information for~~  
32    ~~research purposes relative to a renewable electrical generation~~  
33    ~~facility. If the existing electrical meter of an eligible~~  
34    ~~customer-generator is not capable of measuring the flow of~~  
35    ~~electricity in two directions, the eligible customer-generator shall~~  
36    ~~be responsible for all expenses involved in purchasing and~~  
37    ~~installing a meter that is able to measure electricity flow in two~~  
38    ~~directions. If an additional meter or meters are installed, the net~~  
39    ~~energy metering calculation shall yield a result identical to that of~~  
40    ~~a single meter. An eligible customer-generator that is receiving~~

1 service other than through the standard contract or tariff may elect  
2 to receive service through the standard contract or tariff until the  
3 electric utility reaches the generation limit set forth in this  
4 paragraph. Once the generation limit is reached, only eligible  
5 customer-generators that had previously elected to receive service  
6 pursuant to the standard contract or tariff have a right to continue  
7 to receive service pursuant to the standard contract or tariff.  
8 Eligibility for net energy metering does not limit an eligible  
9 customer-generator's eligibility for any other rebate, incentive, or  
10 credit provided by the electric utility, or pursuant to any  
11 governmental program, including rebates and incentives provided  
12 pursuant to the California Solar Initiative.

13 (2) ~~An electrical corporation shall include a provision in the net~~  
14 ~~energy metering contract or tariff requiring that any customer with~~  
15 ~~an existing electrical generating facility and meter who enters into~~  
16 ~~a new net energy metering contract shall provide an inspection~~  
17 ~~report to the electrical corporation, unless the electrical generating~~  
18 ~~facility and meter have been installed or inspected within the~~  
19 ~~previous three years. The inspection report shall be prepared by a~~  
20 ~~California licensed contractor who is not the owner or operator of~~  
21 ~~the facility and meter. A California licensed electrician shall~~  
22 ~~perform the inspection of the electrical portion of the facility and~~  
23 ~~meter.~~

24 (3) (A) ~~On an annual basis, every electric utility shall make~~  
25 ~~available to the ratemaking authority information on the total rated~~  
26 ~~generating capacity used by eligible customer-generators that are~~  
27 ~~customers of that provider in the provider's service area and the~~  
28 ~~net surplus electricity purchased by the electric utility pursuant to~~  
29 ~~this section.~~

30 (B) ~~An electric service provider operating pursuant to Section~~  
31 ~~394 shall make available to the ratemaking authority the~~  
32 ~~information required by this paragraph for each eligible~~  
33 ~~customer-generator that is their customer for each service area of~~  
34 ~~an electrical corporation, local publicly owned electrical utility,~~  
35 ~~or electrical cooperative, in which the eligible customer-generator~~  
36 ~~has net energy metering.~~

37 (C) ~~The ratemaking authority shall develop a process for making~~  
38 ~~the information required by this paragraph available to electric~~  
39 ~~utilities, and for using that information to determine when, pursuant~~  
40 ~~to paragraphs (1) and (4), an electric utility is not obligated to~~

1 provide net energy metering to additional eligible  
2 customer-generators in its service area.

3 (4) ~~An electric utility is not obligated to provide net energy~~  
4 ~~metering to additional eligible customer-generators in its service~~  
5 ~~area when the combined total peak demand of all electricity used~~  
6 ~~by eligible customer-generators served by all the electric utilities~~  
7 ~~in that service area furnishing net energy metering to eligible~~  
8 ~~customer-generators exceeds 5 percent of the aggregate customer~~  
9 ~~peak demand of those electric utilities.~~

10 (d) ~~Every electric utility shall make all necessary forms and~~  
11 ~~contracts for net energy metering and net surplus electricity~~  
12 ~~compensation service available for download from the Internet.~~

13 (e) (1) ~~Every electric utility shall ensure that requests for~~  
14 ~~establishment of net energy metering and net surplus electricity~~  
15 ~~compensation are processed in a time period not exceeding that~~  
16 ~~for similarly situated customers requesting new electric service,~~  
17 ~~but not to exceed 30 working days from the date it receives a~~  
18 ~~completed application form for net energy metering service or net~~  
19 ~~surplus electricity compensation, including a signed interconnection~~  
20 ~~agreement from an eligible customer-generator and the electric~~  
21 ~~inspection clearance from the governmental authority having~~  
22 ~~jurisdiction.~~

23 (2) ~~Every electric utility shall ensure that requests for an~~  
24 ~~interconnection agreement from an eligible customer-generator~~  
25 ~~are processed in a time period not to exceed 30 working days from~~  
26 ~~the date it receives a completed application form from the eligible~~  
27 ~~customer-generator for an interconnection agreement.~~

28 (3) ~~If an electric utility is unable to process a request within the~~  
29 ~~allowable timeframe pursuant to paragraph (1) or (2), it shall notify~~  
30 ~~the eligible customer-generator and the ratemaking authority of~~  
31 ~~the reason for its inability to process the request and the expected~~  
32 ~~completion date.~~

33 (f) (1) ~~If a customer participates in direct transactions pursuant~~  
34 ~~to paragraph (1) of subdivision (b) of Section 365, or Section 365.1,~~  
35 ~~with an electric service provider that does not provide distribution~~  
36 ~~service for the direct transactions, the electric utility that provides~~  
37 ~~distribution service for the eligible customer-generator is not~~  
38 ~~obligated to provide net energy metering or net surplus electricity~~  
39 ~~compensation to the customer.~~



1     ~~(2) If a customer participates in direct transactions pursuant to~~  
2 ~~paragraph (1) of subdivision (b) of Section 365 with an electric~~  
3 ~~service provider, and the customer is an eligible~~  
4 ~~customer-generator, the electric utility that provides distribution~~  
5 ~~service for the direct transactions may recover from the customer's~~  
6 ~~electric service provider the incremental costs of metering and~~  
7 ~~billing service related to net energy metering and net surplus~~  
8 ~~electricity compensation in an amount set by the ratemaking~~  
9 ~~authority.~~

10     ~~(g) Except for the time-variant kilowatthour pricing portion of~~  
11 ~~any tariff adopted by the commission pursuant to paragraph (4) of~~  
12 ~~subdivision (a) of Section 2851, each net energy metering contract~~  
13 ~~or tariff shall be identical, with respect to rate structure, all retail~~  
14 ~~rate components, and any monthly charges, to the contract or tariff~~  
15 ~~to which the same customer would be assigned if the customer did~~  
16 ~~not use a renewable electrical generation facility, except that~~  
17 ~~eligible customer-generators shall not be assessed standby charges~~  
18 ~~on the electrical generating capacity or the kilowatthour production~~  
19 ~~of a renewable electrical generation facility. The charges for all~~  
20 ~~retail rate components for eligible customer-generators shall be~~  
21 ~~based exclusively on the customer-generator's net kilowatthour~~  
22 ~~consumption over a 12-month period, without regard to the eligible~~  
23 ~~customer-generator's choice as to from whom it purchases~~  
24 ~~electricity that is not self-generated. Any new or additional demand~~  
25 ~~charge, standby charge, customer charge, minimum monthly~~  
26 ~~charge, interconnection charge, or any other charge that would~~  
27 ~~increase an eligible customer-generator's costs beyond those of~~  
28 ~~other customers who are not eligible customer-generators in the~~  
29 ~~rate class to which the eligible customer-generator would otherwise~~  
30 ~~be assigned if the customer did not own, lease, rent, or otherwise~~  
31 ~~operate a renewable electrical generation facility is contrary to the~~  
32 ~~intent of this section, and shall not form a part of net energy~~  
33 ~~metering contracts or tariffs.~~

34     ~~(h) For eligible customer-generators, the net energy metering~~  
35 ~~calculation shall be made by measuring the difference between~~  
36 ~~the electricity supplied to the eligible customer-generator and the~~  
37 ~~electricity generated by the eligible customer-generator and fed~~  
38 ~~back to the electrical grid over a 12-month period. The following~~  
39 ~~rules shall apply to the annualized net metering calculation:~~

1     ~~(1) The eligible residential or small commercial~~  
2     ~~customer-generator, at the end of each 12-month period following~~  
3     ~~the date of final interconnection of the eligible~~  
4     ~~customer-generator's system with an electric utility, and at each~~  
5     ~~anniversary date thereafter, shall be billed for electricity used~~  
6     ~~during that 12-month period. The electric utility shall determine~~  
7     ~~if the eligible residential or small commercial customer-generator~~  
8     ~~was a net consumer or a net surplus customer-generator during~~  
9     ~~that period.~~

10    ~~(2) At the end of each 12-month period, where the electricity~~  
11    ~~supplied during the period by the electric utility exceeds the~~  
12    ~~electricity generated by the eligible residential or small commercial~~  
13    ~~customer-generator during that same period, the eligible residential~~  
14    ~~or small commercial customer-generator is a net electricity~~  
15    ~~consumer and the electric utility shall be owed compensation for~~  
16    ~~the eligible customer-generator's net kilowatthour consumption~~  
17    ~~over that 12-month period. The compensation owed for the eligible~~  
18    ~~residential or small commercial customer-generator's consumption~~  
19    ~~shall be calculated as follows:~~

20    ~~(A) For all eligible customer-generators taking service under~~  
21    ~~contracts or tariffs employing "baseline" and "over baseline" rates,~~  
22    ~~any net monthly consumption of electricity shall be calculated~~  
23    ~~according to the terms of the contract or tariff to which the same~~  
24    ~~customer would be assigned to, or be eligible for, if the customer~~  
25    ~~was not an eligible customer-generator. If those same~~  
26    ~~customer-generators are net generators over a billing period, the~~  
27    ~~net kilowatthours generated shall be valued at the same price per~~  
28    ~~kilowatthour as the electric utility would charge for the baseline~~  
29    ~~quantity of electricity during that billing period, and if the number~~  
30    ~~of kilowatthours generated exceeds the baseline quantity, the excess~~  
31    ~~shall be valued at the same price per kilowatthour as the electric~~  
32    ~~utility would charge for electricity over the baseline quantity during~~  
33    ~~that billing period.~~

34    ~~(B) For all eligible customer-generators taking service under~~  
35    ~~contracts or tariffs employing time-of-use rates, any net monthly~~  
36    ~~consumption of electricity shall be calculated according to the~~  
37    ~~terms of the contract or tariff to which the same customer would~~  
38    ~~be assigned, or be eligible for, if the customer was not an eligible~~  
39    ~~customer-generator. When those same customer-generators are~~  
40    ~~net generators during any discrete time-of-use period, the net~~

1 kilowatthours produced shall be valued at the same price per  
2 kilowatthour as the electric utility would charge for retail  
3 kilowatthour sales during that same time-of-use period. If the  
4 eligible customer-generator's time-of-use electrical meter is unable  
5 to measure the flow of electricity in two directions, paragraph (1)  
6 of subdivision (c) shall apply.

7 (C) For all eligible residential and small commercial  
8 customer-generators and for each billing period, the net balance  
9 of moneys owed to the electric utility for net consumption of  
10 electricity or credits owed to the eligible customer-generator for  
11 net generation of electricity shall be carried forward as a monetary  
12 value until the end of each 12-month period. For all eligible  
13 commercial, industrial, and agricultural customer-generators, the  
14 net balance of moneys owed shall be paid in accordance with the  
15 electric utility's normal billing cycle, except that if the eligible  
16 commercial, industrial, or agricultural customer-generator is a net  
17 electricity producer over a normal billing cycle, any excess  
18 kilowatthours generated during the billing cycle shall be carried  
19 over to the following billing period as a monetary value, calculated  
20 according to the procedures set forth in this section, and appear as  
21 a credit on the eligible commercial, industrial, or agricultural  
22 customer-generator's account, until the end of the annual period  
23 when paragraph (3) shall apply.

24 (3) At the end of each 12-month period, where the electricity  
25 generated by the eligible customer-generator during the 12-month  
26 period exceeds the electricity supplied by the electric utility during  
27 that same period, the eligible customer-generator is a net surplus  
28 customer-generator and the electric utility, upon an affirmative  
29 election by the net surplus customer-generator, shall either (A)  
30 provide net surplus electricity compensation for any net surplus  
31 electricity generated during the prior 12-month period, or (B) allow  
32 the net surplus customer-generator to apply the net surplus  
33 electricity as a credit for kilowatthours subsequently supplied by  
34 the electric utility to the net surplus customer-generator. For an  
35 eligible customer-generator that does not affirmatively elect to  
36 receive service pursuant to net surplus electricity compensation,  
37 the electric utility shall retain any excess kilowatthours generated  
38 during the prior 12-month period. The eligible customer-generator  
39 not affirmatively electing to receive service pursuant to net surplus  
40 electricity compensation shall not be owed any compensation for

1 the net surplus electricity unless the electric utility enters into a  
2 purchase agreement with the eligible customer-generator for those  
3 excess kilowatthours. Every electric utility shall provide notice to  
4 eligible customer-generators that they are eligible to receive net  
5 surplus electricity compensation for net surplus electricity, that  
6 they must elect to receive net surplus electricity compensation,  
7 and that the 12-month period commences when the electric utility  
8 receives the eligible customer-generator's election. For an electric  
9 utility that is an electrical corporation or electrical cooperative,  
10 the commission may adopt requirements for providing notice and  
11 the manner by which eligible customer-generators may elect to  
12 receive net surplus electricity compensation.

13 (4) (A) An eligible customer-generator with multiple meters  
14 may elect to aggregate the electrical load of the meters located on  
15 the property where the renewable electrical generation facility is  
16 located and on all property adjacent or contiguous to the property  
17 on which the renewable electrical generation facility is located, if  
18 those properties are solely owned, leased, or rented by the eligible  
19 customer-generator. If the eligible customer-generator elects to  
20 aggregate the electric load pursuant to this paragraph, the electric  
21 utility shall use the aggregated load for the purpose of determining  
22 whether an eligible customer-generator is a net consumer or a net  
23 surplus customer-generator during a 12-month period.

24 (B) If an eligible customer-generator chooses to aggregate  
25 pursuant to subparagraph (A), the eligible customer-generator shall  
26 be permanently ineligible to receive net surplus electricity  
27 compensation, and the electric utility shall retain any kilowatthours  
28 in excess of the eligible customer-generator's aggregated electrical  
29 load generated during the 12-month period.

30 (C) If an eligible customer-generator with multiple meters elects  
31 to aggregate the electrical load of those meters pursuant to  
32 subparagraph (A), and different rate schedules are applicable to  
33 service at any of those meters, the electricity generated by the  
34 renewable electrical generation facility shall be allocated to each  
35 of the meters in proportion to the electrical load served by those  
36 meters. For example, if the eligible customer-generator receives  
37 electric service through three meters, two meters being at an  
38 agricultural rate that each provide service to 25 percent of the  
39 customer's total load, and a third meter, at a commercial rate, that  
40 provides service to 50 percent of the customer's total load, then

1 50 percent of the electrical generation of the eligible renewable  
2 generation facility shall be allocated to the third meter that provides  
3 service at the commercial rate and 25 percent of the generation  
4 shall be allocated to each of the two meters providing service at  
5 the agricultural rate. This proportionate allocation shall be  
6 computed each billing period.

7 (D) This paragraph shall not become operative for an electrical  
8 corporation unless the commission determines that allowing  
9 eligible customer-generators to aggregate their load from multiple  
10 meters will not result in an increase in the expected revenue  
11 obligations of customers who are not eligible customer-generators.  
12 The commission shall make this determination by September 30,  
13 2013. In making this determination, the commission shall determine  
14 if there are any public purpose or other noncommodity charges  
15 that the eligible customer-generators would pay pursuant to the  
16 net energy metering program as it exists prior to aggregation, that  
17 the eligible customer-generator would not pay if permitted to  
18 aggregate the electrical load of multiple meters pursuant to this  
19 paragraph.

20 (E) A local publicly owned electric utility or electrical  
21 cooperative shall only allow eligible customer-generators to  
22 aggregate their load if the utility's ratemaking authority determines  
23 that allowing eligible customer-generators to aggregate their load  
24 from multiple meters will not result in an increase in the expected  
25 revenue obligations of customers that are not eligible  
26 customer-generators. The ratemaking authority of a local publicly  
27 owned electric utility or electrical cooperative shall make this  
28 determination within 180 days of the first request made by an  
29 eligible customer-generator to aggregate their load. In making the  
30 determination, the ratemaking authority shall determine if there  
31 are any public purpose or other noncommodity charges that the  
32 eligible customer-generator would pay pursuant to the net energy  
33 metering or co-energy metering program of the utility as it exists  
34 prior to aggregation, that the eligible customer-generator would  
35 not pay if permitted to aggregate the electrical load of multiple  
36 meters pursuant to this paragraph. If the ratemaking authority  
37 determines that load aggregation will not cause an incremental  
38 rate impact on the utility's customers that are not eligible  
39 customer-generators, the local publicly owned electric utility or  
40 electrical cooperative shall permit an eligible customer-generator

1 to elect to aggregate the electrical load of multiple meters pursuant  
2 to this paragraph. The ratemaking authority may reconsider any  
3 determination made pursuant to this subparagraph in a subsequent  
4 public proceeding.

5 (F) For purposes of this paragraph, parcels that are divided by  
6 a street, highway, or public thoroughfare are considered contiguous,  
7 provided they are otherwise contiguous and under the same  
8 ownership.

9 (G) An eligible customer-generator may only elect to aggregate  
10 the electrical load of multiple meters if the renewable electrical  
11 generation facility, or a combination of those facilities, has a total  
12 generating capacity of not more than one megawatt.

13 (H) Notwithstanding ~~subdivision (g), an eligible~~  
14 ~~customer-generator electing to aggregate the electrical load of~~  
15 ~~multiple meters pursuant to this subdivision shall remit service~~  
16 ~~charges for the cost of providing billing services to the electric~~  
17 ~~utility that provides service to the meters.~~

18 (5) (A) ~~The ratemaking authority shall establish a net surplus~~  
19 ~~electricity compensation valuation to compensate the net surplus~~  
20 ~~customer-generator for the value of net surplus electricity generated~~  
21 ~~by the net surplus customer-generator. The commission shall~~  
22 ~~establish the valuation in a ratemaking proceeding. The ratemaking~~  
23 ~~authority for a local publicly owned electric utility shall establish~~  
24 ~~the valuation in a public proceeding. The net surplus electricity~~  
25 ~~compensation valuation shall be established to provide the net~~  
26 ~~surplus customer-generator just and reasonable compensation for~~  
27 ~~the value of net surplus electricity, while leaving other ratepayers~~  
28 ~~unaffected. The ratemaking authority shall determine whether the~~  
29 ~~compensation will include, where appropriate justification exists,~~  
30 ~~either or both of the following components:~~

31 (i) ~~The value of the electricity itself.~~

32 (ii) ~~The value of the renewable attributes of the electricity.~~

33 (B) ~~In establishing the rate pursuant to subparagraph (A), the~~  
34 ~~ratemaking authority shall ensure that the rate does not result in a~~  
35 ~~shifting of costs between eligible customer-generators and other~~  
36 ~~bundled service customers.~~

37 (6) (A) ~~Upon adoption of the net surplus electricity~~  
38 ~~compensation rate by the ratemaking authority, any renewable~~  
39 ~~energy credit, as defined in Section 399.12, for net surplus~~  
40 ~~electricity purchased by the electric utility shall belong to the~~

1 electric utility. Any renewable energy credit associated with  
2 electricity generated by the eligible customer-generator that is  
3 utilized by the eligible customer-generator shall remain the property  
4 of the eligible customer-generator.

5 (B) Upon adoption of the net surplus electricity compensation  
6 rate by the ratemaking authority, the net surplus electricity  
7 purchased by the electric utility shall count toward the electric  
8 utility's renewables portfolio standard annual procurement targets  
9 for the purposes of paragraph (1) of subdivision (b) of Section  
10 399.15, or for a local publicly owned electric utility, the renewables  
11 portfolio standard annual procurement targets established pursuant  
12 to Section 387.

13 (7) The electric utility shall provide every eligible residential  
14 or small commercial customer-generator with net electricity  
15 consumption and net surplus electricity generation information  
16 with each regular bill. That information shall include the current  
17 monetary balance owed the electric utility for net electricity  
18 consumed, or the net surplus electricity generated, since the last  
19 12-month period ended. Notwithstanding this subdivision, an  
20 electric utility shall permit that customer to pay monthly for net  
21 energy consumed.

22 (8) If an eligible residential or small commercial  
23 customer-generator terminates the customer relationship with the  
24 electric utility, the electric utility shall reconcile the eligible  
25 customer-generator's consumption and production of electricity  
26 during any part of a 12-month period following the last  
27 reconciliation, according to the requirements set forth in this  
28 subdivision, except that those requirements shall apply only to the  
29 months since the most recent 12-month bill.

30 (9) If an electric service provider or electric utility providing  
31 net energy metering to a residential or small commercial  
32 customer-generator ceases providing that electric service to that  
33 customer during any 12-month period, and the customer-generator  
34 enters into a new net energy metering contract or tariff with a new  
35 electric service provider or electric utility, the 12-month period,  
36 with respect to that new electric service provider or electric utility,  
37 shall commence on the date on which the new electric service  
38 provider or electric utility first supplies electric service to the  
39 customer-generator.

1 (i) ~~Notwithstanding any other provisions of this section,~~  
2 ~~paragraphs (1), (2), and (3) shall apply to an eligible~~  
3 ~~customer-generator with a capacity of more than 10 kilowatts, but~~  
4 ~~not exceeding one megawatt, that receives electric service from a~~  
5 ~~local publicly owned electric utility that has elected to utilize a~~  
6 ~~co-energy metering program unless the local publicly owned~~  
7 ~~electric utility chooses to provide service for eligible~~  
8 ~~customer-generators with a capacity of more than 10 kilowatts in~~  
9 ~~accordance with subdivisions (g) and (h):~~

10 (1) ~~The eligible customer-generator shall be required to utilize~~  
11 ~~a meter, or multiple meters, capable of separately measuring~~  
12 ~~electricity flow in both directions. All meters shall provide~~  
13 ~~time-of-use measurements of electricity flow, and the customer~~  
14 ~~shall take service on a time-of-use rate schedule. If the existing~~  
15 ~~meter of the eligible customer-generator is not a time-of-use meter~~  
16 ~~or is not capable of measuring total flow of electricity in both~~  
17 ~~directions, the eligible customer-generator shall be responsible for~~  
18 ~~all expenses involved in purchasing and installing a meter that is~~  
19 ~~both time-of-use and able to measure total electricity flow in both~~  
20 ~~directions. This subdivision shall not restrict the ability of an~~  
21 ~~eligible customer-generator to utilize any economic incentives~~  
22 ~~provided by a governmental agency or an electric utility to reduce~~  
23 ~~its costs for purchasing and installing a time-of-use meter.~~

24 (2) ~~The consumption of electricity from the local publicly owned~~  
25 ~~electric utility shall result in a cost to the eligible~~  
26 ~~customer-generator to be priced in accordance with the standard~~  
27 ~~rate charged to the eligible customer-generator in accordance with~~  
28 ~~the rate structure to which the customer would be assigned if the~~  
29 ~~customer did not use a renewable electrical generation facility.~~  
30 ~~The generation of electricity provided to the local publicly owned~~  
31 ~~electric utility shall result in a credit to the eligible~~  
32 ~~customer-generator and shall be priced in accordance with the~~  
33 ~~generation component, established under the applicable structure~~  
34 ~~to which the customer would be assigned if the customer did not~~  
35 ~~use a renewable electrical generation facility.~~

36 (3) ~~All costs and credits shall be shown on the eligible~~  
37 ~~customer-generator's bill for each billing period. In any months~~  
38 ~~in which the eligible customer-generator has been a net consumer~~  
39 ~~of electricity calculated on the basis of value determined pursuant~~  
40 ~~to paragraph (2), the customer-generator shall owe to the local~~



1 publicly owned electric utility the balance of electricity costs and  
2 credits during that billing period. In any billing period in which  
3 the eligible customer-generator has been a net producer of  
4 electricity calculated on the basis of value determined pursuant to  
5 paragraph (2), the local publicly owned electric utility shall owe  
6 to the eligible customer-generator the balance of electricity costs  
7 and credits during that billing period. Any net credit to the eligible  
8 customer-generator of electricity costs may be carried forward to  
9 subsequent billing periods, provided that a local publicly owned  
10 electric utility may choose to carry the credit over as a kilowatthour  
11 credit consistent with the provisions of any applicable contract or  
12 tariff, including any differences attributable to the time of  
13 generation of the electricity. At the end of each 12-month period,  
14 the local publicly owned electric utility may reduce any net credit  
15 due to the eligible customer-generator to zero.

16 (j) A renewable electrical generation facility used by an eligible  
17 customer-generator shall meet all applicable safety and  
18 performance standards established by the National Electrical Code,  
19 the Institute of Electrical and Electronics Engineers, and accredited  
20 testing laboratories, including Underwriters Laboratories  
21 Incorporated and, where applicable, rules of the commission  
22 regarding safety and reliability. A customer-generator whose  
23 renewable electrical generation facility meets those standards and  
24 rules shall not be required to install additional controls, perform  
25 or pay for additional tests, or purchase additional liability  
26 insurance.

27 (k) If the commission determines that there are cost or revenue  
28 obligations for an electrical corporation that may not be recovered  
29 from customer-generators acting pursuant to this section, those  
30 obligations shall remain within the customer class from which any  
31 shortfall occurred and shall not be shifted to any other customer  
32 class. Net energy metering and co-energy metering customers shall  
33 not be exempt from the public goods charges imposed pursuant to  
34 Article 7 (commencing with Section 381), Article 8 (commencing  
35 with Section 385), or Article 15 (commencing with Section 399)  
36 of Chapter 2.3 of Part 1.

37 (l) A net energy metering, co-energy metering, or wind energy  
38 co-metering customer shall reimburse the Department of Water  
39 Resources for all charges that would otherwise be imposed on the  
40 customer by the commission to recover bond-related costs pursuant

1 to an agreement between the commission and the Department of  
2 Water Resources pursuant to Section 80110 of the Water Code,  
3 as well as the costs of the department equal to the share of the  
4 department's estimated net unavoidable power purchase contract  
5 costs attributable to the customer. The commission shall  
6 incorporate the determination into an existing proceeding before  
7 the commission, and shall ensure that the charges are  
8 nonbypassable. Until the commission has made a determination  
9 regarding the nonbypassable charges, net energy metering,  
10 co-energy metering, and wind energy co-metering shall continue  
11 under the same rules, procedures, terms, and conditions as were  
12 applicable on December 31, 2002.

13 (m) In implementing the requirements of subdivisions (k) and  
14 (l), an eligible customer-generator shall not be required to replace  
15 its existing meter except as set forth in paragraph (1) of subdivision  
16 (e), nor shall the electric utility require additional measurement of  
17 usage beyond that which is necessary for customers in the same  
18 rate class as the eligible customer-generator.

19 (n) It is the intent of the Legislature that the Treasurer  
20 incorporate net energy metering, including net surplus electricity  
21 compensation, co-energy metering, and wind energy co-metering  
22 projects undertaken pursuant to this section as sustainable building  
23 methods or distributive energy technologies for purposes of  
24 evaluating low-income housing projects.